

104TH CONGRESS
1ST SESSION

H. R. 992

To amend the Food Stamp Act of 1977 to require the Secretary to reauthorize participating retail food stores and wholesale food concerns biennially; to require such stores and such concerns to provide documentation to the Secretary for approval and reauthorization; to provide for the forfeiture of proceeds and property resulting from certain violations of such Act; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 1995

Mr. WYDEN introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Food Stamp Act of 1977 to require the Secretary to reauthorize participating retail food stores and wholesale food concerns biennially; to require such stores and such concerns to provide documentation to the Secretary for approval and reauthorization; to provide for the forfeiture of proceeds and property resulting from certain violations of such Act; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Food Stamp Traffick-
3 ing Prevention and Penalty Act of 1995”.

4 **SEC. 2. BIENNIAL REAUTHORIZATION OF RETAIL FOOD**
5 **STORES AND WHOLESALE FOOD CONCERNS.**

6 Section 9(a)(2)(A) of the Food Stamp Act of 1977
7 (7 U.S.C. 2018(a)(2)(A)) is amended—

8 (1) by striking “periodic”, and

9 (2) by inserting “not less frequently than at 2-
10 year intervals” before the semicolon.

11 **SEC. 3. DOCUMENTATION REQUIRED RELATING RETAIL**
12 **FOOD STORES AND WHOLESALE FOOD CON-**
13 **CERNS.**

14 The first sentence of section 9(c) of the Food Stamp
15 Act of 1977 (7 U.S.C. 2018(c)) is amended by inserting
16 “and documentation (which may include tax documents,
17 business licenses, certificates of incorporation, and other
18 official documents)” after “information”.

19 **SEC. 4. CIVIL AND CRIMINAL FORFEITURE OF PROPERTY.**

20 (a) FORFEITURE.—The Food Stamp Act of 1977 (7
21 U.S.C. 2011–2032) is amended by adding at the end the
22 following:

23 **“SEC. 24. CIVIL AND CRIMINAL FORFEITURE.**

24 **“(a) PROPERTY SUBJECT TO FORFEITURE.—In the**
25 **case of a violation (other than a misdemeanor) of sub-**
26 **section (b) or (c) of section 15, the following shall be sub-**

1 ject to forfeiture to the United States in a civil or criminal
2 proceeding, and no property right shall exist in them:

3 “(1) All coupons which have been used, trans-
4 ferred, acquired, altered, possessed, or presented or
5 caused to be presented for payment or redemption in
6 violation of subsection (b) or (c) of section 15.

7 “(2) All conveyances, including aircraft, vehi-
8 cles, or vessels, which are used, or are intended for
9 use, to transport, or in any manner to facilitate the
10 transportation, sale, receipt, possession, or conceal-
11 ment of property described in paragraph (1), except
12 that—

13 “(A) no conveyance used by any person as
14 a common carrier in the transaction of business
15 as a common carrier shall be forfeited under
16 this section unless it appears that the owner or
17 other person in charge of such conveyance was
18 a consenting party or privy to a violation of
19 subsection (b) or (c) of section 15;

20 “(B) no conveyance shall be forfeited
21 under this section by reason of any act or omis-
22 sion established by the owner thereof to have
23 been committed or omitted by any person other
24 than such owner while such conveyance was un-
25 lawfully in the possession of a person other

1 than the owner in violation of the criminal laws
2 of the United States, or of any State; and

3 “(C) no conveyance shall be forfeited under
4 this paragraph to the extent of an interest of an
5 owner, by reason of any act or omission estab-
6 lished by that owner to have been committed, or
7 omitted without the knowledge, consent, or will-
8 ful blindness of the owner.

9 “(3) All books, records, microfilm, tapes, and
10 data which are used, or intended for use, in violation
11 of subsection (b) or (c) of section 15.

12 “(4) All moneys, negotiable instruments, securi-
13 ties, or other things of value furnished or intended
14 to be furnished by any person in exchange for cou-
15 pons in violation of subsection (b) or (c) of section
16 15, all proceeds traceable to such an exchange, and
17 all moneys, negotiable instruments, and securities
18 used or intended to be used to facilitate any viola-
19 tion of subsection (b) or (c) of section 15, except
20 that no property shall be forfeited under this para-
21 graph, to the extent of the interest of an owner, by
22 reason of any act or omission established by that
23 owner to have been committed or omitted without
24 the knowledge or consent of that owner.

1 “(5) All real property, including any right, title,
2 and interest (including any leasehold interest) in the
3 whole of any lot or tract of land and any appur-
4 tenances or improvements, which is used, or in-
5 tended to be used, in any manner or part, to com-
6 mit, or to facilitate the commission of, a violation of
7 subsection (b) or (c) of section 15 punishable by
8 more than one year’s imprisonment, except that no
9 property shall be forfeited under this paragraph, to
10 the extent of an interest of an owner, by reason of
11 any act or omission established by that owner to
12 have been committed or omitted without the knowl-
13 edge or consent of that owner.

14 “(6) All coupons which have been involved in
15 violation of subsection (b) or (c) of section 15.

16 “(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES
17 FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS; ISSU-
18 ANCE OF WARRANT AUTHORIZING SEIZURE.—Any prop-
19 erty subject to forfeiture to the United States under sub-
20 section (a) may be seized by the Attorney General upon
21 process issued pursuant to the Supplemental Rules for
22 Certain Admiralty and Maritime Claims by any district
23 court of the United States having jurisdiction over the
24 property, except that seizure without such process may be
25 made when—

1 “(1) the seizure is incident to an arrest or a
2 search under a search warrant or an inspection
3 under an administrative inspection warrant;

4 “(2) the property subject to seizure has been
5 the subject of a prior judgment in favor of the
6 United States in a criminal injunction or forfeiture
7 proceeding under this section;

8 “(3) the Attorney General has probable cause
9 to believe that the property is directly or indirectly
10 dangerous to health or safety; or

11 “(4) the Attorney General has probable cause
12 to believe that the property is subject to civil forfeit-
13 ure under subsection (a).

14 In the event of seizure pursuant to paragraph (2), pro-
15 ceedings under subsection (e) shall be instituted promptly.
16 The Government may request the issuance of a warrant
17 authorizing the seizure of property subject to forfeiture
18 under subsection (a) in the same manner as provided for
19 a search warrant under the Federal Rules of Criminal
20 Procedure.

21 “(c) CRIMINAL FORFEITURE.—The court in imposing
22 sentence on a person convicted of violation (other than a
23 misdemeanor) of subsection (b) or (c) of section 15 shall
24 order that the person forfeit to the United States any

1 property subject to forfeiture to the United States under
2 subsection (a).

3 “(d) CUSTODY OF ATTORNEY GENERAL.—Property
4 taken or detained under this section shall not be
5 replevable, but shall be deemed to be in the custody of
6 the Attorney General, subject only to the orders and de-
7 crees of the court or the official having jurisdiction there-
8 of. Whenever property is seized under this section, the At-
9 torney General may—

10 “(1) place the property under seal;

11 “(2) remove the property to a place designated
12 by the Attorney General; or

13 “(3) require that the General Services Adminis-
14 tration take custody of the property and remove it,
15 if practicable, to an appropriate location for disposi-
16 tion in accordance with law.

17 “(e) OTHER LAWS AND PROCEEDINGS APPLICA-
18 BLE.—The provisions of law relating to—

19 “(1) the seizure, summary and judicial forfeit-
20 ure, and condemnation of property for violation of
21 the customs laws;

22 “(2) the disposition of such property or the pro-
23 ceeds from the sale thereof;

24 “(3) the remission or mitigation of such forfeit-
25 ures; and

1 “(4) the compromise of claims;
2 shall apply to seizure and forfeitures incurred, or alleged
3 to have been incurred, under this section, insofar as appli-
4 cable and not inconsistent with the provisions hereof, ex-
5 cept that such duties as are imposed upon the customs
6 officer or any other person with respect to the seizure and
7 forfeiture of property under the customs laws shall be per-
8 formed with respect to seizures and forfeitures of property
9 under this section by such officers, agents, or other per-
10 sons as may be authorized to be designated for that pur-
11 pose by the Attorney General unless such duties arise from
12 seizures and forfeitures effected by any customs officer.

13 “(f) DISPOSITION OF FORFEITED PROPERTY.—

14 “(1) METHODS.—Whenever property is for-
15 feited under this section the Attorney General
16 may—

17 “(A) retain the property for official use or,
18 in the manner provided with respect to trans-
19 fers under section 1616a of title 19, United
20 States Code, transfer the property to any Fed-
21 eral agency or to any State or local law enforce-
22 ment agency which participated directly in the
23 seizure or forfeiture of the property;

1 “(B) sell any forfeited property which is
2 not required to be destroyed by law and which
3 is not harmful to the public;

4 “(C) require that the General Services Ad-
5 ministration take custody of the property and
6 dispose of it in accordance with law; or

7 “(D) transfer the forfeited personal prop-
8 erty or the proceeds of the sale of any forfeited
9 personal or real property to any foreign country
10 which participated directly or indirectly in a sei-
11 zure or forfeiture of the property, if such a
12 transfer—

13 “(i) has been agreed to by the Sec-
14 retary of State;

15 “(ii) is authorized in an international
16 agreement between the United States and
17 the foreign country; and

18 “(iii) is made to a country which, if
19 applicable, has been certified under section
20 2291(h) of title 22, United States Code.

21 “(2) USE OF PROCEEDS FROM SALES.—The
22 proceeds from any sale under paragraph (1)(B) and
23 any monies forfeited under this section shall be
24 used—

1 “(A) first, to reimburse the Department of
2 Justice for the costs incurred by the Depart-
3 ment to initiate and complete the forfeiture pro-
4 ceeding that caused the sale that produced such
5 proceeds;

6 “(B) second, to reimburse the Department
7 of Agriculture for any costs incurred by the De-
8 partment to assist the Department of Justice to
9 initiate or complete such proceeding; and

10 “(C) third, to reimburse the State agency
11 for any costs incurred by the State agency to
12 assist the Department of Justice, or the De-
13 partment of Agriculture, to initiate or complete
14 such proceeding.

15 The amount remaining, if any, shall be available to
16 the Secretary to carry out this Act.

17 “(3) TRANSFER OF PROPERTY.—The Attorney
18 General shall ensure that any property transferred
19 to a State or local law enforcement agency under
20 paragraph (1)(A)—

21 “(A) has a value that bears a reasonable
22 relationship to the degree of direct participation
23 of the State or local law enforcement agency in
24 the law enforcement effort resulting in the for-
25 feiture, taking into account the total value of all

1 property forfeited and the total law enforcement
2 effort with respect to the violation of law on
3 which the forfeiture is based; and

4 “(B) is not so transferred to circumvent
5 any requirement of State law that prohibits for-
6 feiture or limits use or disposition of property
7 forfeited to State or local agencies.

8 “(g) FORFEITURE AND DESTRUCTION OF COU-
9 PONS.—All coupons that are used, transferred, acquired,
10 altered, possessed, or presented or caused to be presented
11 for payment or redemption in violation of subsection (b)
12 or (c) of section 15 shall be deemed contraband, and seized
13 and summarily forfeited to the United States. Similarly,
14 all coupons which are seized or come into the possession
15 of the United States, the owners of which are unknown,
16 shall be deemed contraband and summarily forfeited to the
17 United States.

18 “(h) VESTING OF TITLE IN UNITED STATES.—All
19 right, title, and interest in property described in sub-
20 section (a) shall vest in the United States upon commis-
21 sion of the act giving rise to forfeiture under this section.

22 “(i) STAY OF CIVIL FORFEITURE PROCEEDINGS.—
23 The filing of an indictment or information alleging a viola-
24 tion of section 15 which is also related to a civil forfeiture
25 proceeding under this section shall, upon motion of the

1 United States and for good cause shown, stay the civil
2 forfeiture proceeding.

3 “(j) VENUE.—In addition to the venue provided for
4 in section 1395 of title 28, United States Code, or any
5 other provision of law, in the case of property of a defend-
6 ant charged with a violation that is the basis for forfeiture
7 of the property under this section, a proceeding for forfeit-
8 ure under this section may be brought in the judicial dis-
9 trict in which the defendant owning such property is found
10 or in the judicial district in which the criminal prosecution
11 is brought.

12 “(k) AGREEMENT BETWEEN ATTORNEY GENERAL
13 AND POSTAL SERVICE FOR PERFORMANCE OF FUNC-
14 TIONS.—The functions of the Attorney General under this
15 section shall be carried out by the Postal Service pursuant
16 to such agreement as may be entered into between the
17 Attorney General and the Postal Service.

18 “(l) EXPEDITED PROCEDURES FOR PROPERTY OF
19 RETAIL FOOD STORES AND WHOLESALE FOOD CON-
20 CERNS.—

21 “(1) PETITION FOR EXPEDITED DECISION; DE-
22 TERMINATION.—(A) A retail food store or wholesale
23 food concern may petition the Attorney General for
24 an expedited decision with respect to property used
25 to carry out its food sale operations if such property

1 is seized under this section and if such store or such
2 concern filed the requisite claim and cost bond in
3 the manner provided in section 1608 of title 19,
4 United States Code. The Attorney General shall
5 make a determination on a petition under this sub-
6 section expeditiously, including a determination of
7 any rights or defenses available to the petitioner. If
8 the Attorney General does not grant or deny a peti-
9 tion under this subsection within 20 days after the
10 date on which the petition is filed, such property
11 shall be returned to the owner pending further for-
12 feiture proceedings.

13 “(B) With respect to a petition under this sub-
14 section, the Attorney General may—

15 “(i) deny the petition and retain possession
16 of such property;

17 “(ii) grant the petition, move to dismiss
18 the forfeiture action, if filed, and promptly re-
19 lease such property to such store or such con-
20 cern; or

21 “(iii) advise the petitioner that there is not
22 adequate information available to determine the
23 petition and promptly release such property to
24 such store or such concern.

1 “(C) Release of property under subparagraph
2 (A) or (B)(iii) does not affect any forfeiture action
3 with respect to such property.

4 “(D) The Attorney General shall prescribe reg-
5 ulations to carry out this subsection.

6 “(2) WRITTEN NOTICE OF PROCEDURES.—At
7 the time of seizure, the officer making the seizure
8 shall furnish to any person in possession of such
9 property a written notice specifying the procedures
10 under this subsection. At the earliest practicable op-
11 portunity after determining ownership of the seized
12 property, the head of the department or agency that
13 seizes such property shall furnish a written notice to
14 such store or such concern, and other interested par-
15 ties (including lienholders), of the legal and factual
16 basis of the seizure.

17 “(3) COMPLAINT FOR FORFEITURE.—Not later
18 than 60 days after a claim and cost bond have been
19 filed under section 1608 of title 19, United States
20 Code, regarding property seized under this section,
21 the Attorney General shall file a complaint for for-
22 feiture in the appropriate district court, except that
23 the court may extend the period for filing for good
24 cause shown or on agreement of the parties. If the
25 Attorney General does not file a complaint as speci-

1 fied in the preceding sentence, the court shall order
2 the return of such property to such store or such
3 concern and the forfeiture may not take place.

4 “(4) BOND FOR RELEASE OF PROPERTY USED
5 IN FOOD SALE OPERATION.—Any retail food store or
6 wholesale food concern may obtain release of prop-
7 erty used to carry out its food sale operations by
8 providing security in the form of a bond to the At-
9 torney General in an amount equal to the value of
10 such property unless the Attorney General deter-
11 mines such property should be retained (A) as con-
12 traband, (B) as evidence of a violation of law, or (C)
13 because, by reason of design or other characteristic,
14 such property is particularly suited for use in illegal
15 activities.”.

16 (b) CONFORMING AMENDMENT.—Section 15 of the
17 Food Stamp Act of 1977 (7 U.S.C. 2024) is amended by
18 striking subsection (g).

19 **SEC. 5. EFFECTIVE DATES.**

20 (a) REGULATIONS.—The amendment made by sec-
21 tions 2 and 3 shall take effect 60 days after the date of
22 the enactment of this Act.

1 (b) LAUNDERING AND FORFEITURE.—The amend-
2 ments made by section 4 shall take effect on the date of
3 the enactment of this Act.

○